

Chapter 4

Utah State Defense Force Act

39-4-1 Governor authorized to organize Utah State Defense Force.

- (1) The governor may organize and maintain within this state, under regulations the United States may prescribe for discipline in training, military forces the governor considers necessary to defend this state.
- (2) These forces shall be composed of officers commissioned or assigned, and able-bodied citizens of the state who volunteer for service, supplemented if necessary by persons in the militia enrolled by draft or otherwise as provided by law.
- (3) These forces shall be additional to and distinct from the National Guard and shall be known as the Utah State Defense Force. These forces may be uniformed.

Amended by Chapter 210, 1988 General Session

39-4-2 Governor to prescribe rules and regulations.

The governor is authorized to prescribe rules and regulations not inconsistent with the provisions of this act governing the enlistment, organization, administration, equipment, maintenance, training and discipline of such forces: Provided, such rules and regulations, in so far as he deems practicable and desirable, shall conform to existing law governing and pertaining to the National Guard and the rules and regulations promulgated thereunder and shall prohibit the acceptance of gifts, donations, gratuities or anything of value by such forces or by any member of such forces from any individual, firm, association or corporation by reason of such membership.

No Change Since 1953

39-4-3 Compensation of force members.

- (1) Every member of the Utah State Defense Force, when called into active service by the governor shall receive compensation as prescribed by the governor.
- (2) The compensation may not exceed the rate of pay under law for officers and other members of the National Guard when called into active service of the state by the governor.

Amended by Chapter 210, 1988 General Session

39-4-4 Governor may requisition arms and equipment from secretary of defense.

For the use of such forces, the governor is authorized to requisition from the secretary of war such arms and equipment as may be in possession of and can be spared by the war department; and to make available to such forces the facilities of state armories and their equipment and such other state premises and property as may be available.

No Change Since 1953

39-4-5 Service outside state prohibited -- Exceptions.

Such forces shall not be required to serve outside the boundaries of this state except:

- (1) Upon the request of the governor of another state, the governor of this state may, in his discretion, order any portion or all of such forces to assist the military or police forces of such

other state who are actually engaged in defending such other state. Such forces may be recalled by the governor at his discretion.

- (2) Any organization, unit or detachment of such forces, upon order of the officer in immediate command thereof, may continue in fresh pursuit of insurrectionists, saboteurs, enemies or enemy forces beyond the borders of this state into another state until they are apprehended or captured by such organization, unit or detachment or until the military or police forces of the other state or the forces of the United States have had a reasonable opportunity to take up the pursuit or to apprehend or capture such persons; provided, such other state shall have given authority by law for such pursuit by such forces of this state. Any such person who shall be apprehended or captured in such other state shall without unnecessary delay be surrendered to the military or police forces of the state in which he is taken or to the United States, but such surrender shall not constitute a waiver by this state of its right to extradite or prosecute such persons for any crime committed in this state.

No Change Since 1953

39-4-6 Forces of another state in fresh pursuit may make arrests.

Any military forces or organization, unit or detachment thereof, of another state who are in fresh pursuit of insurrectionists, saboteurs, enemies or enemy forces may continue such pursuit into this state until the military or police forces of this state or the forces of the United States have had a reasonable opportunity to take up the pursuit or to apprehend or capture such persons and are authorized to arrest or capture such persons within this state while in fresh pursuit. Any such person who shall be captured or arrested by the military forces of such other state while in this state shall without unnecessary delay be surrendered to the military or police forces of this state to be dealt with according to law. This section shall not be construed so as to make unlawful any arrest in this state which would otherwise be lawful, and nothing contained in this section shall be deemed to repeal any of the provisions of the Uniform Act on the Fresh Pursuit of Criminals.

No Change Since 1953

39-4-7 State Defense Force, as such, not subject to United States military service -- Members not exempt from United States military service.

Nothing in this act shall be construed as authorizing such forces, or any part thereof to be called, ordered or in any manner drafted, as such into the military service of the United States, but no person shall by reason of his enlistment or commission in any such forces be exempted from military service under any law of the United States.

No Change Since 1953

39-4-8 No organizations to be enlisted as a unit.

No civil organization, society, club, post, order, fraternity, association, brotherhood, body, union, league or other combination of persons or civil group shall be enlisted in such forces as an organization or unit.

No Change Since 1953

39-4-9 Qualifications of members.

No person shall be commissioned or enlisted in such forces who is not a citizen of the United States or who has been expelled or dishonorably discharged from any military or naval organization of this state, or of another state, or of the United States.

No Change Since 1953

39-4-10 Oaths of force officers.

The oath to be taken by officers commissioned in the forces shall be substantially in the form prescribed for officers of the National Guard, but substituting the words Utah State Defense Force, where necessary.

Amended by Chapter 210, 1988 General Session

39-4-11 Term of force enlistment -- Oaths.

A person may not be enlisted for more than one year, but enlistment may be renewed. The oath to be taken upon enlistment in the forces shall be substantially in the form prescribed for enlisted men of the National Guard, substituting the words, Utah State Defense Force, where necessary.

Amended by Chapter 210, 1988 General Session

39-4-12 Military court law and rules of National Guard applicable -- Privilege from arrest, posse comitatus, and jury service.

- (1) When the forces or any part of them are ordered out for active service or are serving as members of the Utah State Defense Force, the Utah Code of Military Justice, as it applies to the state National Guard, and regulations prescribed under it apply to the Utah State Defense Force.
- (2) Members of the Utah State Defense Force are privileged from arrest under Section 39-1-54, when in state service.
- (3) Persons serving in the Utah State Defense Force are, during this service, exempt from posse comitatus and from jury duty.

Amended by Chapter 210, 1988 General Session

39-4-13 Short title.

This chapter may be cited as the Utah State Defense Force Act.

Amended by Chapter 210, 1988 General Session